



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 28, 2020

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Todd Washam
Director of House Relations

TO: Joseph Brazauskas
Associate Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I currently do not have any financial conflicts of interest. However, I will continue to remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Air Conditioning Contractors of America**, is a party or represents a party. Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

Because I was a federally registered lobbyist within the two years prior to my appointment, I understand that I am also subject to the provisions of Section 1, Paragraph 7 of the Executive Order. For a period of two years after the date of my appointment, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. I am advised by OGC/Ethics that Section 1, Paragraph 7 applies to both “particular matters involving specific parties” and “particular matters of general applicability,” but not the broader term, “matters” as used in 18 U.S.C. § 207(c), or broad policy areas.²

Within the previous two years, I engaged in lobbying related to the Heating Ventilation Air Conditioning and Refrigeration (HVACR) industry. While I may be listed as having lobbied on other issues, the American Innovation and Manufacturing (AIM) Act is the only one I personally lobbied on that may arise at EPA. However, I am advised by OGC/Ethics that the AIM Act is a broader “matter” rather than a “particular matter,” and therefore outside the scope of Section 1, Paragraph 7 of the Ethics Pledge. Additionally, OGC/Ethics has advised that my current duties in the Office of Congressional and Intergovernmental Relations do not involve my participation in the strategy, development or implementation of any of the issues I formerly lobbied on related to the HVACR industry.³

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters from which I am recused, I will ask Travis Voyles, Principal Deputy Associate Administrator to assist in screening EPA matters directed to my attention. All inquiries and comments involving my recusals should be directed to Mr. Voyles without my knowledge or involvement.

If Mr. Voyles determines that I am recused, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that Mr. Voyles is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to Justina Fugh, Director, Ethics Office.

UPDATE AS NECESSARY

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

² See OGE Legal Advisory LA-17-03 (March 20, 2017), which defines “specific issue area” to mean a “particular matter of general applicability,” which is a particular matter that is focused on the interests of a discrete and identifiable class of persons, but does not involve specific parties. See also 5 C.F.R. § 2640.102(l)-(m) (defining “particular matter involving specific parties” and “particular matter of general applicability”); OGE DO-06-029 (Oct. 4, 2006) (defining “matter”).

³ *Id.*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Travis Voyles, Principal Deputy Associate Administrator
Robin Richardson, Deputy Associate Administrator
Justina Fugh, Director, Ethics Office

Todd J Washam 8/28/2020